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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,532	11/19/2001	Volker Henz	112740-354	5940
29177	7590	05/17/2005	EXAMINER	
BELL, BOYD & LLOYD, LLC				TAYLOR, BARRY W
P. O. BOX 1135				ART UNIT
CHICAGO, IL 60690-1135				PAPER NUMBER
				2643

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

09/979,532

**Applicant(s)**

HENZ ET AL.

**Examiner**

Barry W Taylor

Art Unit

2643

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires 3 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

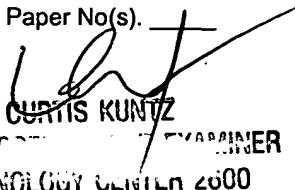
**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).  
 13.  Other: \_\_\_\_\_.

  
**CURTIS KUNTZ**  
 SUPERVISORY EXAMINER  
 TECHNOLOGY UNIT LN 2600

**DETAILED ACTION**

**Continuation Sheet (PTO-303)**

a) Regarding Applicants remark at the top of page 5, paper dated 4/20/05 wherein Applicants state: "Furthermore, in the Response to Arguments, the Examiner addressed the aforementioned arguments by stating that "switch A is actually an 'operator' that actually determines how to bridge the call." No further argumentation was provided in this regard."

The Examiner notes that one versed in the teachings of Rogers (i.e. including references cited on the Rogers patent) would readily recognize that switch A is nothing more than an operator's position. To further support Examiner's reasoning (see Applicant's own specification, (i.e. BACKGROUND OF THE INVENTION---pages 2-4) wherein Applicant's attempt to describe prior art). Furthermore, if Rogers teachings are so far off, why have Applicants submitted 1449 for Examiner consideration having Rogers cited, as well as, references that were cited on the Rogers patent (i.e. **Burd et al 5,432,845** wherein "switch" and/or operator position routs/connects three-way conference calls via location **also silent with respect to using tariff table?))?**

b) Next, Applicants continue to argue that Rogers fails to teach "initiating setup....." (see starting at second paragraph page 5 and continuing to page 6, paper dated 4/20/05).

The Examiner notes that Rogers was not the only reference used (see Office Action made Final, paper mailed 2/15/05). Shaffer improves on prior art by using

database information containing tariff data (col. 2 lines 51-60 and col. 3 lines 2-12) thereby automating prior art teachings of using “human involvement” by using different connectivity configurations (i.e. “reconfiguration”—see col. 4 line 5 – col. 5 line 57) which of course is based upon a variety of factors which include “cost savings” (col. 3 line 41 and col. 5 line 12). In fact, Shaffer discloses bridging nodes to select one “optimal” connectivity configuration to the exclusion of other inferior connectivity configurations (col. 5 lines 42-57). Therefore, it would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Shaffer into the teachings of Rogers in order to automate teleconferencing by using database as disclosed by Shaffer **thereby saving money by converting three-party connection into two-party connection as disclosed by Shaffer. Furthermore, Shaffer does exclude other switches that would make the connection “inferior” (see at least col. 5 lines 42-47) where the selection is based upon a number of factors (see at least col. 3 line 41, col. 5 lines 12 and 49).**

c) Next, Applicants skip the Shaffer reference and argue motivation to combine (see Applicants remark on page 6, paper dated 4/20/05).

The Examiner notes the motivation is self-evident (see at least the previous rejection made final, paper mailed 2/25/05). Furthermore, Shaffer not only cites Rogers but also provides a strong motivation of saving money (col. 1 lines 45-47, col. 2 lines 34-39 and lines 51-60).

d) In summation, Applicants independent claim is still general in nature.



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